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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

LANCE D. LINTON, SR.,

Petitioner,

vs.

FRANK LUNA, et al.,

Respondents.

Case No. 3:07-cv-00051-RRB-DMS

**REPLY TO STATE'S OPPOSITION TO
MOTION FOR PLANNING AND
SCHEDULING CONFERENCE**

The state opposes Linton's request for a planning and scheduling conference in its October 26, 2009, opposition, at Docket 110. The state writes that locating the exhibits has been difficult, that it is in the process of obtaining the exhibits for review, and that it expects that process to take some time. *Id.* The state proposes that, instead of a conference, it "will file a status report in 30 days that summarizes the continuing efforts made to obtain the exhibits." *Id.* at 2.

The state's proposal would be acceptable to Mr. Linton except for concern about the fact that Linton's merit brief is due on January 4, 2010, with no further extensions absent extraordinary circumstances. Court Order, Docket 108. Given counsel's pre-existing holiday leave plans (December 23, 2009, to January 3, 2010), counsel will need to complete the merit brief by

about December 17 to meet this deadline. The state is proposing to file a status report on or about November 30, which would give Mr. Linton's counsel only two weeks to review the exhibits (assuming they are obtained by then), to review the trial transcript in connection with the exhibits, and to research and compose the sections of the merit brief that might be impacted by the facts contained in the exhibits.

Notwithstanding the fact that Mr. Linton began the formal process of requesting review of these exhibits in January 2009 [Docket 76], Mr. Linton is agreeable to the process proposed by the state's attorney, so long as he has adequate time to consider those exhibits during the production of his merit brief, and that the time needed to produce the requested exhibits be considered an extraordinary circumstance by the court in granting an additional extension of time to Mr. Linton for the filing of his merit brief.

DATED this 27th day of October, 2009.

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
FOR THE DISTRICT OF ALASKA

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Certification:

I certify that on October 27, 2009, a copy of the foregoing document, with attachments, was served electronically on:

Kenneth M. Rosenstein, Esq.

/s/ Averil Lerman